

# **PLANNING BOARD MINUTES**

**February 11, 2009**

**Board members present:**

**Art Weber, Chairman   Ron Wolanski, Town Planner**

**Audrey Rearick   Frank Holbrook, Assistant Town Solicitor**

**Frank Forgue**

**Betty Jane Owen**

**Richard Adams**

**Gladys Lavine**

**Members absent:**

**Jan Eckhart**

**The meeting was called to order at 6:00 pm.**

**Minutes:**

**Motion by Ms. Rearick, seconded by Ms. Owen, to approve the minutes of the January 14, 2009 regular meeting. Vote: 6-0-0.**

**Old Business**

**1. Bancroft Partners, Administrative Subdivision Plan, Tuckerman Ave. Plat 122, Lots 123, 124, & 127**

**Attorney Robert Silva represented the applicant. He stated that his client is seeking conditional approval of the revised plan for the subject subdivision. The plan that was granted conditional approval**

by the Planning Board at its January 14th meeting has been revised to allow a ten foot setback between existing parking and the proposed property line. The revised plan has a revision date of January 22, 2009.

Motion by Ms. Owen, seconded by Ms. Rearick, to grant conditional approval of the subdivision plan, subject to the applicant being granted any necessary relief by the Zoning Board of Review prior to final subdivision plan approval. Vote: 6-0-0.

**2. Comprehensive Community Plan 5-year update –Discuss meeting schedule.**

Mr. Wolanski stated that Town Council is about to appoint the public members of the Comprehensive Plan Update Committee. Once the committee is established, the first meeting will be scheduled.

**3. Discuss status of draft inclusionary housing ordinance**

Mr. Wolanski stated that he has yet incorporate recommended revisions into the revised draft. By consensus the matter was continued to the March 11, 2009 Planning Board meeting.

**4. Discuss potential amendments to the Middletown Zoning Ordinance, Sections 602 & 603 regarding allowed uses and dimensional requirements on the Limited Business (LB) zoning district.**

Mr. Weber stated that an outcome of recent discussion with Allen Shers and his business partner, Jim Claussen, was a proposal to draft an overlay zoning district that would be applicable to certain LB zoned parcels that meet particular criteria. He asked the board members if they would like to proceed in that direction.

The Board, by consensus, requested that Mr. Wolanski provide a rough draft of an overlay district ordinance. The matter was continued to the March 11, 2009 meeting.

### **New Business**

5. Renaissance Development Corp. (Burger King), 569 West Main Rd., Plat 107SE. Lot 32, Request for Development Plan Review approval of proposed exterior renovations to an existing commercial building.

James Taylor, of the Jan Companies, represented the applicant. He requested consideration of the waivers need to allow for the proposed design.

Mr. Weber stated that the proposed building façade design is not consistent with the town's design standards and the desire for New England style architecture. He would not support the request for waivers.

Ms. Rearick stated that the Wendy's in Bristol has a more traditional design.

Mr. Taylor stated that Burger King has adopted a standard design.

Mr. Weber stated that he is not concerned with Burger King's desire for their standard design. There are many examples in New England where national chains have altered their design to meet local requirements.

Mr. Adams stated that there are many design options.

Other board members agreed that the proposed design is not acceptable.

Mr. Taylor requested that the Board grant a continuance to allow him review the matter.

**Motion by Ms. Rearick, seconded by Ms. Owen, to continue the matter to the March 11, 2009 regular Planning Board meeting. Vote: 6-0-0**

**Additional Items.**

**6. Request of the Town Council for additional Planning Board review and recommendation on proposed zoning ordinance amendment regarding wind energy conversion facilities in light of Town Solicitor comments.**

**Mr. Weber asked Mr. Wolanski to describe the revisions proposed by the Town Solicitor.**

**Mr. Wolanski stated that the primary issue is the threshold separating small-scale and utility-scale facilities. He agreed with the solicitor's recommendation to remove reference to the amount of the generated power on the site.**

**Board members agreed that the threshold should be based on the rated generation capacity of the facility.**

**There was discussion of the appropriate threshold. Reducing the threshold from the 100kW contained in the draft would result in more facilities being classified as utility-scale.**

**Eric Offenbergh of North East Engineers stated that his company is considering installing a facility on their property at the Aquidneck Corporate Park. The proposal is for a 100kw turbine. If classified as utility-scale, zoning variances would be necessary.**

**Scott Milnes, of Rhode Island Wind Power, stated that "small wind" is generally defined as 100kW or less.**

**Following additional discussion the Board agreed that 100kW is an appropriate threshold.**

**Motion by Ms. Rearick, seconded by Mr. Adams, to recommend to the Town Council that the proposed amendment, as revised with the suggestions of the Town Solicitor be adopted. Vote: 6-0-0.**

**7. Request of the Town Council for additional Planning Board review and recommendation on proposed zoning ordinance amendment regarding senior independent living facilities in light of Town Solicitor comments.**

**Mr. Weber described the purpose of the discussion, which is to consider the amendments to the senior independent living ordinance (Article 22) recommended by the Town Solicitor. The ordinance could be amended, or elimination of the ordinance could also be considered.**

**Mr. Holbrook stated that the ordinance, if it is to be retained, must be amended to bring it into conformance with state law. He described the necessary revisions.**

**The floor was opened for discussion.**

**Alice Curran, a resident of Forest Ave., stated that the current ordinance is not consistent with zoning in that it allows for increased density in single family residential districts. She discussed the fact that the attorney for Bay Ridge should have known that the ordinance had legal problems at the time it was adopted.**

**Bruce Ryerson, a resident of Forest Ave., asked if the senior independent living ordinance was written for the BayRidge development.**

**Mr. Weber stated that the ordinance was not written for any particular development. The ordinance is applicable town-wide.**

**Mr. Ryerson stated that the ordinance, which allows for increased density, was presented with the requirement that all residents must be 55 years or older. Now this requirement is proposed to be changed after adoption of the ordinance. He referenced the state statute, which allows for a restriction to require all residents be 62 years or older. He suggested that the Board consider incorporating that into the regulations. He raised concern over the ongoing activities at the BayRidge development including stockpiling of fill material. He also expressed concern over the potential intensification of the use of the proposed Buck Rd. connection to Forest Ave. if the restrictions on the BayRidge development change.**

**Mr. Adams asked what would be lost to the Town if the ordinance is eliminated.**

**Mr. Wolanski stated that the ordinance allows for communities, including multi-family housing, that cater to older residents. Without the ordinance, such development would not be permitted.**

**Attorney Patrick Hayes, Jr. stated that he represents the owners of the BayRidge development, and the ordinance he originally presented to the Planning Board for consideration was consistent with state law.**

**Mr. Wolanski confirmed that his recollection of the discussions relating to the adoption of the ordinance was that the provision to require that all residents in such developments be 55+ was added to address concerns of the Planning Board over possible impacts of increased density. It was not included in the original draft provided by Mr. Hayes.**

**Mr. Hayes asked that the BayRidge development be “grandfathered” if the current ordinance is amended or eliminated. A provision should be added to the zoning ordinance to ensure that the development can proceed and would not be considered non-conforming.**

**Mr. Wolanski stated that the Board should first focus on how it would like to proceed with the proposed ordinance amendment. The potential impact on the BayRidge development should be a separate discussion.**

**Mr. Adams suggested that the Board should make changes to the existing ordinance necessary to bring it into conformity with state law.**

**Ms. Owen stated that she is concerned about the impact on Forest Ave. residents if the ordinance is amended. She stated that she is concerned that the BayRidge development was allowed increased density through an ordinance that is not consistent with state law.**

**Mr. Ryerson stated that he is concerned that if the current age restrictions are removed, the BayRidge developer will market the units to young families.**

**Motion by Mr. Adams, seconded by Mr. Forgue, to recommend to the Town Council that the Article 22 be amended as proposed by the Town Solicitor. Vote: 5-1-0.**

### **Additional New Business**

**Mr. Wolanski stated that the Building/Zoning Official has requested that the Board consider a possible Zoning Ordinance amendment to address regulation and permitting of fences. By consensus the Board**

**requested that Mr. Holbrook review the issue and draft an ordinance including the provisions suggested by the Building/Zoning Official.**

**Motion by Ms. Rerarick, seconded by Mr. Forgue, to adjourn. Vote:  
6-0-0**

**The meeting adjourned at 7:30pm**